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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,005	04/21/2001	Phillip G. Spaniol	FT0002R	9406
64095	7590	05/05/2009	EXAMINER	
LAW OFFICES OF KEVIN D. KASCHKE, LTD. 3105 KING ALFORD COURT SAINT CHARLES, IL 60174			UNDERWOOD, DONALD W	
			ART UNIT	PAPER NUMBER
			3652	
			MAIL DATE	DELIVERY MODE
			05/05/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/830,005	SPANIOL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Donald Underwood	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02/02/09.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-35, 61 and 62 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 61 and 62 is/are allowed.  
 6) Claim(s) 1-15 and 17-30 is/are rejected.  
 7) Claim(s) 16 and 31-35 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/02/09 has been entered.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the known baler system discussed by applicants in lines 22-31 on page 1 of their specification or Lundahl, et al. in view of Eecke, et al. and Vellidus and Hale, et al. as applied and for the reasons set forth in the rejection in the Office action mailed 09/17/07.

Regarding claims 2-5, note Hale sets forth that one would want to collect, record and display harvest data, e. g., yield and moisture content (See Hale, column 4, lines 46-56 and column 1, lines 14-33.) and Vellidus sets forth collecting similar functions (See Vellidus, the abstract and column 1, lines 43-55.). These functions include bale size, moisture content, weight, yield, i. e., bale count, etc. It would have been obvious

to provide a controller to collect the claimed measurements in the primary references in view of the above noted teachings in Vellidus and Hale.

Regarding claims 6-14 and 28, Vellidus and Hale teach control systems in agricultural machines. Each reference monitors the location of a vehicle and uses the data to provide vehicle control. Note the abstract in Vellidus and the paragraph bridging columns 2 and 3 in Hale. Also note Hale, column 4, lines 51-56 which set forth providing directional or positional assistance. It would have been obvious to provide the claimed controls in the primary references in view of the above noted teachings in Vellidus and Hale..

Regarding claims 15, 17-27 and 29, the operations in these claims, i. e., picking up, storing and discharging bales are functions bale handlers perform. To computerize these control functions in the primary references would have been obvious to an artisan in view of the teachings in Vellidus and Hale.

Further regarding claims 15 and 17-28, the accumulator in Ecke comprises the structure to provide the operation claimed. See Ecke, figures 1-4.

Claims 16 and 31-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 61 and 62 are allowed.

Applicants' arguments have been carefully considered but are not deemed persuasive. The issue appears to be one of obviousness with the examiner of the opinion that Vellidus and Hale provide ample teachings to computerize the known bale

handler and that in Lundahl as claimed and the applicants of the opinion that they do not provide ample teachings. Note applicants' set forth throughout their arguments that Vellidus and Hale are not modifiable by the known bale handler or Lundahl. This appears to be an inadvertent reversal since the rejection does the opposite, i. e., modifies the known bale handler and Lundahl with Vellidus and Hale.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

/Donald Underwood/

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Art Unit: 3652

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Primary Examiner, Art Unit 3652

05/01/09